

ORIGINAL

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

UNITED STATES OF AMERICA,

CRIMINAL NO. 18-20255

vs.

HON. VICTORIA A. ROBERTS

OFFENSE: 18 U.S.C. § 666(a)(2)

D-2 WILLIAM PRITULA,

MAXIMUM PENALTIES:

Up to ten years' imprisonment.

Up to \$250,000 fine.

Supervised Release: Up to three years.

Defendant.

RULE 11 PLEA AGREEMENT

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, defendant

WILLIAM PRITULA and the government agree as follows:

1. Guilty Plea

A. Count of Conviction

The defendant will enter a plea of guilty to Count One of the Superseding Information, which charges him with federal program bribery, in violation of 18 U.S.C. § 666(a)(2).

B. Elements of Offense

The elements of federal program bribery that the government would need to prove beyond a reasonable doubt at trial are:

ORIGINAL

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CR. NO. 18-00123

CR. NO. 18-00123

ROBERT A. ROBERTS

CR. NO. 18-00123

CR. NO. 18-00123

CR. NO. 18-00123

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(1) A person was an agent of an organization, a state, local or tribal government, or an agency of a state, local or tribal government;

(2) The organization, state or local government, state or local government agency, or tribal government, received federal assistance in excess of \$10,000.00 in a one-year period;

(3) The federal assistance was under a federal program involving a grant, contract, subsidy, loan, guarantee, insurance or other form of federal assistance;

(4) The one-year period of federal assistance was within twelve months before or after the commission of the offense, as defined in 18 U.S.C. § 666(d)(5);

(5) The defendant gave, offered, or agreed to give a thing of value to any person;

(6) The defendant intended to influence or reward the agent of the organization or agency in connection with a transaction or series of transactions of the organization or agency that involved \$5,000.00 or more; and

(7) The defendant acted corruptly.

C. Factual Basis for Guilty Plea

The following facts are a sufficient and accurate basis for the defendant's guilty plea:

The Wayne County Airport Authority (WCAA) is an organization operating within Wayne County, Michigan, in the Eastern District of Michigan. The WCAA

received in excess of \$10,000.00 under one or more federal programs involving grants, contracts, subsidies, loans, guarantees, insurance and other forms of federal assistance in each one-year period for the years 2010 through 2014.

Defendant **WILLIAM PRITULA** owned and operated Pritula and Sons, a company which sought and entered into contracts for pavement repair and replacement, as well as water main repair and fire hydrant installation and maintenance at Detroit Metropolitan Airport (DTW), a division of the WCAA. From September of 2010 through October of 2014, James Warner, an agent of the WCAA, devised and **PRITULA** participated in a scheme in which Warner would provide inside information to **PRITULA** in order to enable **PRITULA** to secure facilities and maintenance contracts at DTW. After **PRITULA** secured the contracts for **PRITRULA's** company, Warner, with **PRITULA's** knowledge and permission, would then create and submit fraudulent invoices on **PRITULA's** behalf for work **PRITULA** performed at DTW. The fraudulent invoices grossly inflated the cost of **PRITULA's** labor and materials. Following the WCAA's payment to **PRITULA**, Warner and **PRITULA** would divide the inflated proceeds equally. From September of 2010 through October of 2014, **PRITULA's** company received over \$18,000,000.00 in payments from the WCAA. Of that amount, **PRITULA**, acting corruptly and with the intent to influence and reward Warner, paid Warner kickbacks amounting to over \$5,000,000.00.

D. Standard of Proof

The Court will find sentencing factors by a preponderance of the evidence.

E. Agreed Guideline Range

The parties disagree on the applicability of the four-level aggravating role enhancement in USSG § 2C1.1(b)(3)—i.e., that the offense involved a public official in a high-level decision-making or sensitive position. USSG §2C1.1(b)(3); *Application Note 1*. With the application of subsection (b)(3), the government recommends that the Court find that the defendant's guideline range is 120 months (33/I), as set forth on the attached worksheets. The defendant, in contrast, recommends that the Court determine that his guideline range is 87 to 108 (29/I)—the same recommendation as the government's but without the aggravating role enhancement in USSG § 2C1.1(b)(3). If the Court finds:

1. That defendant's criminal history category is higher than reflected on the attached worksheets, or
2. that the offense level should be higher because, after pleading guilty, defendant made any false statement to or withheld information from his probation officer; otherwise demonstrated a lack of acceptance of responsibility for his offense; or obstructed justice or committed any crime,

and if any such finding results in a guideline range higher than **120 months**, the higher guideline range becomes the **agreed range**. If the Court finds that defendant is a career offender, an armed career criminal, or a repeat and dangerous sex offender as defined under the sentencing guidelines or other federal law, and that finding is not already reflected in the attached worksheets, this paragraph does not authorize a corresponding increase in the agreed range.

Neither party may take a position concerning the applicable guidelines that is different than any position of that party as reflected in the attached worksheets, except as necessary to the Court's determination regarding subsections 1) and 2), above.

2. Sentence

The Court will impose a sentence pursuant to 18 U.S.C. § 3553, and in doing so must consider the sentencing guideline range.

A. Imprisonment

Pursuant to Rule 11(c)(1)(C), the sentence of imprisonment in this case may not exceed the **statutory maximum proscribed in 18 U.S.C. § 666**, that is, **120 months' imprisonment**. The government agrees that at the time of sentencing it will join in a request by the defense for a downward variance in the defendant's sentence based on the defendant's age, extensive medical problems, and health conditions. The amount of any variance to be granted will be left for the Court to determine.

B. Supervised Release

A term of supervised release follows the term of imprisonment. The Court must impose a term of supervised release, which in this case is up to three years. The agreement concerning imprisonment described above in Paragraph 3A does not apply to any term of imprisonment that results from any later revocation of supervised release.

C. Special Assessment

The defendant will pay a special assessment of \$100 at the time of sentencing.

D. Fine

The parties agree that the fine will be no more than the maximum amount of \$250,000.

E. Restitution

The Court shall order restitution to every identifiable victim of the defendant's offense. The victim and the amount of restitution in this case are as follows: WCAA, \$11,000,000. The following property will be applied towards restitution:

1. All funds on deposit funds on deposit in Public Service Credit Union account number XXX22-51 (approximately \$1,017,095.72); and
2. All funds on deposit in Flagstar Bank certificate of deposit number XXXXX6765 (approximately \$1,200,000.00).

F. Forfeiture

Pursuant to 18 U.S.C. § 981(a)(1)(C) with 28 U.S.C. § 2461(c), defendant agrees to forfeit to the United States all property, real and personal, which constitutes or is derived, directly or indirectly, from gross proceeds traceable to defendant's offense, as charged in Count One of the Superseding Information, including, but not limited to the following:

1. All funds on deposit in Comerica Bank account number XXXXXX9376 (approximately \$65,269.23);
2. All funds on deposit in Comerica Bank account number XXXXXX4810 (approximately \$1,902,030.47);
3. All funds on deposit in Comerica Bank account number XXXXXX3991 (approximately \$537,603.86);
4. All funds on deposit in Comerica Bank account number XXXXXX3374 (approximately \$181,543.40);
5. \$107,860.00 of funds on deposit in Comerica Bank account number XXXXXX2814;
6. \$48,000.00 of funds on deposit in Comerica Bank account number XXXXXX7496;
7. All funds on deposit in Comerica Bank account number XXXXXX6311 (approximately \$250,407.82);

8. All funds in Western Southern Life Annuity number XXXXXXXX4472
(approximately \$1,080,301.96);
9. All funds on deposit in Public Service Credit Union account number
XXX57-51 (approximately \$11,470.16);
10. All funds on deposit in Public Service Credit Union account number
XXX57-71 (approximately \$19,402.20);
11. All funds on deposit in Public Service Credit Union account number
XXX18-51 (approximately \$107,631.15);
12. All funds on deposit in Public Service Credit Union account number
XXX21-51 (approximately \$16,657.72);
13. All funds on deposit in Flagstar Bank account number XXXXXX0287
(approximately \$200,480.81);
14. All funds on deposit in Flagstar Bank account number XXXXXX8950
(approximately \$209,780.44);
15. All funds in Western Southern Life Annuity number W0021605983
(approximately \$53,024.61);
16. All funds in Western Southern Life Annuity number XXXXXXXX8553
(approximately \$51,124.46);
17. All funds in Western Southern Life Annuity number XXXXXXXX0520
(approximately \$313,182.59);

18.All funds in Western Southern Life Annuity number XXXXXXXX1106
(approximately \$52,000.00);

19.All funds in Western Southern Life Annuity number XXXXXXXX1326
(approximately \$6,500.00);

20.All funds in Western Southern Life Annuity number XXXXXXXX1330
(approximately \$6,500.00);

21.All funds in Western Southern Life Annuity number XXXXXXXX0507
(approximately \$6,500.00);

22.All funds in Forethought Life Insurance Company Annuity number
XXXXXX6686 (approximately \$11,266.00); and

23.All funds in Lincoln Financial Group Annuity number XXXXXX2563
(approximately \$116,580.93).

(hereinafter collectively referred to as the “Subject Property”).

The property to be applied towards restitution and Subject Property are described above without distinguishing whether accounts may have already been frozen or seized by the government, including the possibility of the property currently residing in the government’s possession.

Defendant agrees that the Subject Property constitutes or is derived from proceeds traceable to defendant’s offense, as charged in Count One and there is a

substantial nexus between his violation of Count One of the Superseding Information and the Subject Property.

Defendant agrees to the entry of one or more orders of forfeiture incorporating the forfeiture of the Subject Property and the above referenced money judgment, including the Court's prompt entry of a Preliminary Order of Forfeiture, following defendant's guilty plea, upon application by the United States at, or any time before, his sentencing in this case, as mandated by Fed. R. Crim. P. 32.2. Defendant agrees to sign such an order, indicating he consents to its entry if requested to do so by the Government.

Defendant waives the requirements of Federal Rules of Criminal Procedure 32.2 and 43(a) regarding notice of the forfeiture in the charging instrument, announcement of the forfeiture at sentencing, and incorporation of the forfeiture in the judgment. Defendant acknowledges that he understands that the forfeiture of assets is part of the sentence that may be imposed in this case and waives any failure by the court to advise him of this, pursuant to Rule 11(b)(1)(J), at the time his guilty plea is accepted.

Defendant further agrees to waive all constitutional and statutory challenges in any manner to any forfeiture carried out in accordance with this Plea Agreement on any grounds, including, but not limited to, any Double Jeopardy challenge and any

challenge that the forfeiture constitutes an excessive fine or punishment under the Excessive Fines Clause of the Eighth Amendment to the United States Constitution.

Defendant agrees to take all steps as requested by the United States to pass clear title to forfeitable assets to the United States, including taking whatever steps are necessary to ensure that assets subject to forfeiture are not sold, disbursed, wasted, hidden, or otherwise made unavailable for forfeiture. Defendant further agrees that he will not assist any third party in asserting a claim to the Subject Property in any forfeiture proceeding (judicial or non-judicial) and that he will testify truthfully in any judicial forfeiture proceeding if requested to do so by the government.

If any other person or entity has any interest in any of the Subject Property, defendant will assist in obtaining a release of interest from any such other person or entity,

Further, the defendant agrees to release, remise and discharge plaintiff, the United States of America, and any of its agencies involved in this matter, including the Federal Bureau of Investigation, the United States Marshal's Service, the United States Attorney's Office, and their agents, officers and employees, past and present, from all claims or causes of action which defendant and his agents, officers, employees, assignees and/or successors in interest have, may have had or may have on account of the events or circumstances giving rise to the above-captioned action.

The defendant further agrees to hold the United States, its agents and employees harmless from any claims whatsoever in connection with the seizure and forfeiture of property covered by this Plea Agreement.

Within 30 days of defendant's sentencing, the government will release any Affidavits of Interest previously placed against real property as part of this case.

Upon entry by the Court of an Order of Restitution as part of the Judgment of Conviction in this criminal case, the United States Attorney's Office for the Eastern District of Michigan agrees to prepare a Request for Restoration of Forfeited Assets to Known Victim(s). The Request for Restoration will be submitted to the Department of Justice, Criminal Division, Money Laundering and Asset Recovery Section (MLARS) for determination. Defendant acknowledges that no representation has been made to him, however, as to the outcome of such a Request for Restoration, and understands that the MLARS may grant the Request for Restoration, may grant in-part the Request for Restoration, or may deny the Request for Restoration. Defendant expressly acknowledges that the Request for Restoration may be denied and that no representations have been made to him by or on behalf of the United States Attorney's Office or the Department of Justice as to the likelihood that such a Request will or would be granted.

3. Use of Withdrawn Guilty Plea

If the Court allows the defendant to withdraw his guilty plea for a “fair and just reason” pursuant to Fed. R. Crim. P. 11(d)(2)(B), the defendant waives his rights under Fed. R. Evid. 410, and the government may use his guilty plea, any statement made under oath at the change-of-plea hearing, and the factual basis statement in this plea agreement, against him in any proceeding.

4. Other Charges

If the Court accepts this agreement, the government will not bring any charges based on the factual basis detailed above.

5. Each Party’s Right to Withdraw from This Agreement

The government may withdraw from this agreement if the Court finds the correct guideline range to be different than is determined by Paragraph 2B. The defendant may withdraw from this agreement, and withdraw his guilty plea, if the Court decides to impose a sentence higher than the maximum amount allowed by Paragraph 2. This is the only reason for which the defendant may withdraw from this agreement. The Court shall advise the defendant that if he does not withdraw his guilty plea under this circumstance, the Court may impose a sentence greater than the maximum allowed by Paragraph 2.

6. Appeal Waiver

The defendant waives any right he may have to appeal his conviction or sentence on any grounds. The government waives any right it may have to appeal the defendant's sentence.

7. Consequences of Withdrawal of Guilty Plea or Vacation of Conviction

If defendant is allowed to withdraw his guilty plea or if any conviction entered pursuant to this agreement is vacated, the Court shall, on the government's request, reinstate any charges that were dismissed as part of this agreement. If additional charges are filed against defendant within six months after the date the order vacating defendant's conviction or allowing him to withdraw his guilty plea becomes final, which charges relate directly or indirectly to the conduct underlying the guilty plea or to any conduct reflected in the attached worksheets, defendant waives his right to challenge the additional charges on the ground that they were not filed in a timely manner, including any claim that they were filed after the limitations period expired.

8. Parties to Plea Agreement

Unless otherwise indicated, this agreement does not bind any government agency except the United States Attorney's Office for the Eastern District of Michigan.

9. Scope of Plea Agreement

This agreement, which includes all documents that it explicitly incorporates, is the complete agreement between the parties. This agreement supersedes all other

promises, representations, understandings and agreements between the parties concerning the subject matter of this plea agreement that were made at any time before the guilty plea is entered in court. Thus, no oral or written promises made by the government to defendant or to the attorney for the defendant at any time before defendant pleads guilty are binding except to the extent they have been explicitly incorporated into this agreement.

Notwithstanding the previous paragraph, if defendant has entered into a proffer agreement in writing or a cooperation agreement in writing with the government, this plea agreement does not supersede or abrogate the terms of any such prior written agreement.

This agreement also does not prevent any civil or administrative actions against defendant, or any forfeiture claim against any property, by the United States or any other party.

10. Acceptance of Agreement by Defendant

This plea offer expires unless it has been received, fully signed, in the Office of the United States Attorney by 5:00 P.M. on June 12, 2018. The government reserves the right to modify or revoke this offer at any time before defendant pleads guilty.

MATTHEW SCHNEIDER
United States Attorney



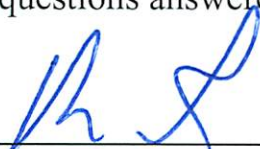
DAVID A. GARDEY
Assistant United States Attorney
Chief, Public Corruption Unit



EATON P. BROWN
Assistant United States Attorney

Dated: 6-5-18

By signing below, defendant acknowledges that he has read (or been read) this entire document, understands it, and agrees to its terms. He also acknowledges that he is satisfied with his attorney's advice and representation. Defendant agrees that he has had a full and complete opportunity to confer with his lawyer, and has had all of his questions answered by his lawyer.



BEN GONEK
ROBERT MORGAN
Attorneys for Defendant

7/16/18
Dated



WILLIAM PRITULA
Defendant

July 16-2018
Dated